

Received 1/23/2017
Clerk-Treasurer email

ORDINANCE NO. 2017-03

AN ORDINANCE AMENDING CHAPTER 154: FIRE PREVENTION CODE

SUMMARY

This ordinance amends Chapter 154: Fire Prevention Code as follows:

1. Section 154.05 to replace the Bureau of Fire Prevention with the Division of Fire Prevention
2. Section 154.11 changes made to establish the International Fire Code and Indiana updates as they relate to storage of certain liquids within the City of Auburn Fire Territory.
3. Section 154.11 changes made to specify what recreational fires entail and to establish a provision that prohibits, within the City of Auburn, Indiana, any individual resident from operating a detached device or structure for the purpose of burning and/or providing heat or other energy to a residential structure and/or garage or outbuilding within the City of Auburn, Indiana.
4. Chapter 154 of the Fire Prevention Code, which includes Sections 154.01 through 154.19 shall be restated upon its passage.

_____ Recorder's Office	_____ Publish Public Hearing
_____ Auditor's Office	
_____ Clerk's Office	_____ Publish O/R after adoption
_____ Other	

_____ Clerk-Treasurer
_____ Web-Site
_____ City Code (web based)

ORDINANCE NO. 2017-03**AN ORDINANCE AMENDING CHAPTER 154: FIRE PREVENTION CODE**

WHEREAS, the Fire Prevention Code sets forth the provisions related to fire prevention in the City of Auburn, Indiana as part of the Auburn Fire Territory; and

WHEREAS, the City of Auburn, Indiana, also serves Union Township as part of the Auburn Fire Territory; and

WHEREAS, it is the intent of the Code to prescribe maintenance and operation regulations that are consistent with nationally recognized good practice for fire prevention and other related matters; and

WHEREAS, this Ordinance updates and modifies certain provisions associated with Chapter 154; and

WHEREAS, the Code prescribes certain rules, regulations, and enforcement authority for fire prevention; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF AUBURN, INDIANA as follows:

Section 1. The Fire Prevention Code shall be amended to set forth in Section 154.02 reference to the International Fire Code in generic terms.

Section 2. Section 154.04 shall be modified to state that “All rules of the Indiana Fire Prevention and Building Safety Commission as set out in Articles 13, 18, 22, 25, and Title 675 of Indiana Administrative Code are hereby incorporated in this Fire Prevention Code and shall include later amendments to that article as the same are published in the Indiana Register on the Indiana Administrative Code with effective dates as fixed therein.”

City Attorney

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Section 3. Section 154.04 there shall be added a subparagraph F to state: “In addition, portable fire extinguishers shall be installed in the following locations:

- 1.) In new and existing Group A, B, E, F, H, I M, R-1, R-2, R-4 and S occupancies.

Section 4. Section 154.05 shall be amended to replace “Bureau” with “Division”.

Section 5. Section 154.14 shall add information regarding recreational fires that include bonfires, smokers, fire pits, chimineas, and any other outdoor fire apparatus. Also, a provision shall be added to state that it shall be prohibited within the City of Auburn, Indiana, for any individual resident, to operate a detached device or structure for purposes of burning and/or providing heat or other energy to a residential structure and/or garage or outbuilding within the City of Auburn, Indiana.

Said Ordinance shall be restated and codified as set forth in Exhibit “A” attached hereto and made a part hereof and the original shall be retained by the Clerk-Treasurer and placed on the City of Auburn website located at www.ci.auburn.in.us. The codified version shall be placed in Chapter 154 Fire Prevention Code and also maintained by the Auburn Fire Department for reference purposes or dissemination to the public, as needed.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF AUBURN, INDIANA that this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and the Common Council of the City of Auburn, Indiana, and appropriate publication with a statutorily accepted newspaper with circulation in DeKalb County, Indiana.

1ST READING _____
2ND READING _____

PASSED AND ADOPTED by the Common Council of the City of Auburn,
Indiana, this _____ day of _____, 2017.

James Finchum, Councilmember

ATTEST:

Patricia Miller, Clerk-Treasurer

Presented by me to the Mayor of the City of Auburn, Indiana, this _____ day of
_____, 2017.

PATRICIA MILLER, Clerk-Treasurer

APPROVED AND SIGNED by me this _____ day of _____, 2017.

NORMAN E. YODER, Mayor

VOTING:

AYE

NAY

Dennis (Matthew) K. Kruse II

James Finchum

Wayne Madden

Michael Watson

Kevin Webb

Dennis Ketzenberger

Michael Walter

City Attorney

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EXHIBIT "A"

CHAPTER 154: FIRE PREVENTION CODE

Section

- 154.01 Title
- 154.02 Purpose
- 154.03 Scope
- 154.04 Adoption of fire prevention codes by reference
- 154.05 Enforcement authority
- 154.06 Inspections
- 154.07 Right of entry
- 154.08 Investigation of fires
- 154.09 Fire records and fire reports
- 154.10 Violations and orders of correction
- 154.11 Establishment of limits of districts in which storage of flammable or combustible liquids in outside, above ground tanks it to be prohibited
- 154.12 Establishment of limits in which storage of liquefied petroleum gases is to be restricted
- 154.13 Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited
- 154.14 Outside burning
- 154.15 Fire hydrants
- 154.16 Certificate of occupancy
- 154.17 Right to appeal
- 154.18 Remedies
- 154.19 Penalties

§ 154.01 TITLE.

This ordinance and all ordinances supplemental or amendatory hereto, shall be known as the "Fire Prevention Code of the City of Auburn, Indiana", may be cited as such, and will be referred to herein as 'this Code.'

§154.02 PURPOSE.

The intent of this code is to prescribe maintenance and operation regulations consistent with nationally recognized good practice for the safeguarding, to a reasonable

degree, of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of buildings or premises.

§154.03 SCOPE.

- A. The provisions of this code shall apply to existing conditions as well as to conditions arising after the adoption thereof. Buildings, Systems, Uses, Special Occupancy Uses, Special Processes, Special Equipment, and Special Subjects legally in existence at the adoption of this code shall be permitted to continue so long as they are maintained in a condition that is equivalent to the quality and fire resistive characteristics that existed when the building was constructed, altered, added to or repaired.
- B. Nothing in this code shall be interpreted or applied to abrogate, nullify or abolish any law, ordinance or code adopted by the City of Auburn, DeKalb County, Indiana, governing the construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of buildings specifically provided herein. When any provision of this code is found to be in conflict with any building, zoning, safety, health or other applicable law, ordinance or code of the City of Auburn, DeKalb County, Indiana, existing on the effective date of this code or hereafter adopted, the provision which establishes the higher standard for the promotion and protection of the safety and welfare of the public shall prevail.
- C. The planning, design and construction of new buildings and structures to provide egress facilities, fire protection, and built-in fire protection

equipment shall be controlled by the International Fire Code, with Indiana amendments, and building rules of the State of Indiana Fire and Building Services Department and any alterations, additions or changes in buildings required by the provisions of this code which are within the scope of the said building rules, shall be made in accordance therewith.

- D. Buildings built under and in full compliance with the building and fire safety laws and rules in force at the time of construction or alteration thereof, and that have been properly maintained and used for such use as originally permitted, shall be exempt from the requirements of this code pertaining to any of the following matters:
1. Fire protection of structural elements.
 2. Exits required, except as provided for existing buildings under this code.
 3. Isolation of hazardous operations and mixed uses: provided however, that the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana, require the installation of fire safety devices or systems (fire extinguishers, fire alarms, fire detection devices, or similar systems, etc.) where they are necessary to provide safety to life. In lieu of requiring the installation of safety devices or systems or when necessary to secure safety in addition thereto, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, shall prescribe limitations on the handling and

storage of materials or substances or upon operations that are liable to cause fire, contribute to the spread of fire, or endanger life or property. Any orders issued by the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, to obtain compliance with this subsection shall be governed by the provisions of IC 36-8-17-10.

§154.04 ADOPTION OF FIRE PREVENTION CODES BY REFERENCE.

- A. The following rules and standards are rules of the Indiana Fire and Building Services Department and City of Auburn, DeKalb County, Indiana, and shall be used in the enforcement of this code for the purpose of fire prevention:
1. All rules of the Indiana Fire Prevention and Building Safety Commission as set out in Articles 13, 18, 22, 25, and Title 675 of Indiana Administrative Code are hereby incorporated in this Fire Prevention Code and shall include later amendments to that article as the same are published in the Indiana Register on the Indiana Administrative Code with effective dates as fixed therein.
 2. Those certain documents, being standards, and fire codes, published by the National Fire Protection Association (NFPA), are hereby adopted by reference, and as amended annually, and made a part of this rule.

- B. Within the standards adopted in this section the term “authority having jurisdiction” shall mean the Fire Department, Fire Chief and/or Fire Marshal and/or Building, Planning and Development Department of the City of Auburn, DeKalb County, Indiana. Wherever reference is made to NFPA 101, Life Safety Code, within the standards adopted in this section, such reference is deleted and a reference is made to the Building Code, City of Auburn, DeKalb County, Indiana, and the Indiana Building Code (675 IAC 13-2.4-1) and shall be substituted therefore.
- C. The American Petroleum Institute (API), Bulletin, 1220 L. Street Northwest Washington D.C., 20005, and as listed in this section is hereby adopted by reference subject to the listed deletion and made a part of this rule.
- D. Recommended Practice for Abandonment or Removal of Used Underground Storage Tanks, API Bulletin. The following standards shall be used with regard to under ground storage tanks: When the tank is to be removed from the premises, the contaminated water and soil shall be removed and disposed of in accordance with Indiana Department of Environmental Management (IDEM) regulations.
- E. Copies of adopted fire safety rules, regulations, codes, and standards are on file as required by law, in the offices of the Fire Marshal, City of Auburn Fire Department, DeKalb County, Indiana, and the Clerk-Treasurer of the City of Auburn, DeKalb County, Indiana.

F. In addition, portable fire extinguishers shall be installed in the following locations:

2.) In new and existing Group A, B, E, F, H, I M, R-1, R-2, R-4 and S occupancies.

§154.05 ENFORCEMENT AUTHORITY.

A. This code shall be enforced by the Division of Fire Prevention in the Auburn Fire Department of the City of Auburn, DeKalb County, Indiana, which is hereby reestablished, and which shall be operated under the direct supervision of the City of Auburn Fire Chief and/or Fire Marshal, DeKalb County, Indiana.

B. The Fire Chief and/or Fire Marshal of the City of Auburn Fire Department DeKalb County, Indiana, may detail such members of the City of Auburn Fire Department, DeKalb County, Indiana, as inspectors as shall from time to time be necessary.

C. It shall be the duty and responsibility of the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, or such officer or authorized designee, who is an ex-officio assistant to the State of Indiana Fire Marshal under IC 36-8-17-5 (a), to enforce the provisions of this code.

D. Only the Fire Chief and/or Fire Marshal may issue monetary citation tickets, after reasonable means to gain compliance have failed and/or with proper justifications.

E. It is the intent of the Auburn Fire Department to achieve compliance by traditional means of inspection, violation notification, granting reasonable time to comply and re-inspection. A monetary fine citation ticket may be issued only after all reasonable means to gain compliance have failed or, with proper justification, at the discretion of the Fire Marshal and/or Fire Chief. Citations shall be used only where a specific section of the appropriate code or ordinance has occurred and documentation establishing prior efforts to gain compliance is in evidence.

EXCEPTION: Citations issued for violations which present imminent life hazards including, but not limited to exits locked or blocked by obstructions, failure to maintain fire protection life safety systems, improper storage and use of flammable and combustible liquids, failure to obey lawful orders of the Fire Chief and/or Fire Marshal. See Exhibit “A”

§154.06 INSPECTIONS.

The Fire Chief and/or Fire Marshal, and/or Auburn Fire Department, DeKalb County, Indiana, shall cause to be inspected all structures and premises, in all fire protection areas except the interiors of private single-family dwellings, and dwelling units in two-family and multi-family dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, contribute to the spread of fire, interfere with fire fighting operations, endanger life, or any other violations of the provisions or intent of this code affecting fire safety.

§154.07 RIGHT OF ENTRY.

Whenever necessary for the purpose of enforcing the provisions of this code, or whenever the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, or their authorized designee, has reasonable cause to believe that there exists in any structure or upon any premises, any condition which makes such structure or premises unsafe, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, or their authorized designee, shall be permitted to enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, by this code; provided that if such structure or premises be occupied, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, or their authorized designee, shall first present proper identification credentials and request entry. If such entry is refused the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, shall have recourse to every remedy provided by law to secure entry.

§154.08 INVESTIGATION OF FIRES.

The Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, shall investigate, or cause to be investigated, every fire or explosion occurring within the City of Auburn, DeKalb County, Indiana, and any fire protection contractual areas; which involves the loss of life or serious injury, or causes destruction or damage to property of which they are made aware. Such investigation shall be initiated immediately upon the occurrence of such fire or explosion; and if it appears that such an occurrence is of a suspicious nature, the Fire Chief and/or Fire Marshal and/or

City Attorney

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Auburn Fire Department, DeKalb County, Indiana, shall take charge immediately of the physical evidence, and in order to preserve any physical evidence relating to the origin of such fire or explosion, take means to prevent access by any person or persons to such buildings, structures, or premises until such evidence has been properly processed.

§154.09 FIRE RECORDS AND FIRE REPORTS.

- A. The Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, shall keep a record of all fires and facts concerning the same, including investigation findings and statistics and information as to the cause, origin, and the extent of such fires and the damage caused thereby.
- B. The Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, shall submit a report of each fire occurring within the City of Auburn, DeKalb County, Indiana, and any fire protection contractual areas, to the Office of the State Fire Marshal State of Indiana, in accordance with IC 36-8-17-7, and in such form as prescribed by that office.

§154.10 VIOLATIONS AND ORDERS OF CORRECTION.

- A. Whenever the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, or their authorized designee, observes an apparent or actual violation of a provision of this code or other ordinances, under the Fire Chief's or Fire Marshal's jurisdiction, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana, shall prepare a written notice of violation and order

describing the condition or conditions deemed unsafe and specifying a reasonable time for the required repairs or improvements to be made to correct such violations. The written notice of violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice of violations shall be served either by delivering a copy of same to such person or persons by ordinary mail to the last known post office address delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or in the case such person is not found upon the premises, by affixing a copy thereof, in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed the equivalent of personal notice.

- B. If the notice of violation and order is not complied with, within the time specified by the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana, and if no review of such order has been initiated under IC 36-8-17-10, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana shall request the legal counsel of the City of Auburn to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful use of the buildings or structures in violation of the provisions of this code, or of any order or direction made pursuant thereto.

C. When the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana determines there is actual and potential danger to the occupants or those in the proximity of any buildings, structures, or premises because of unsafe structural conditions or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases, or materials, the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana, may issue an emergency order for the immediate evacuation of said buildings, structures, or premises. All of the occupants so notified shall immediately leave the buildings, structures, or premises and persons shall not enter or re-enter until authorized to do so by the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana. Any person who shall refuse to leave, or interferes with the operations of the fire department or the evacuation of other occupants, or continues any operation after having been given an evacuation order; except such work as that person is directed to perform to remove a violation or unsafe condition; shall be deemed in violation of this code.

§154.11 ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS IN OUTSIDE, ABOVE GROUND TANKS IS TO BE PROHIBITED.

A. The limits referred to in Chapter 34 under the International Fire Code, with Indiana updates, in which the storage of Class 1 and Class 2 liquids in aboveground tanks, outside of buildings is prohibited, are

hereby established as follows: Zoning Districts R-1, R-2, R-3; except by permit C-1, C-2 as defined by Auburn City Code.

- B. The limits referred to in Chapter 34, 35 and 36, in which new bulk plants for flammable and combustible liquids are prohibited, are hereby established as follows: Zoning Districts R-1, R- 2, R-3; except by permit, C-1, C-2, I-1 and I-2 as defined by Auburn City Code.

§154.12 ESTABLISHMENT OF LIMITS IN WHICH STORAGE OF LIQUEFIED PETROLEUM GASES IS TO RESTRICTED.

Liquefied petroleum gas is restricted, and hereby band as follows: Zoning Districts R-1, R-2, R-3; except by permit C-1, C-2, as defined by Auburn City Code.

§154.13 ESTABLISHED OF LIMITS OF DISTRICTS IN WHICH STORAGE OF EXLOSIVES AND BLASTING AGENTS IS TO BE PROHIBITED.

Storage of explosives and blasting agents are prohibited, as follows: Zoning Districts R -1, R -2, R -3, C-1, C-2, I-1, I-2, 0S and MH, as defined by Auburn City Code.

§154.14 OUTSIDE BURNING.

Within the City limits of Auburn there shall be no out door burning allowed for the

Purposes of disposing of the following:

- a. trash, garbage, rubbish;
- b. yard waste;
- c. tree limbs, brush, sticks, grass;
- d. construction materials;
- e. debris; and
- f. any other waste product that can be disposed of through recycling, regular trash removal, compost, and or regional landfill deposit.

All ceremonial, recreational bonfires, campfires or similar activities, within the City of Auburn shall only be allowed by permit issued by the Auburn Fire Department in accordance with Indiana Fire Code and Indiana Outdoor Burning laws under the jurisdiction of the Indiana Department of Environmental Management, and the Indiana State Fire Marshall. Recreational fires shall include the following: Bonfires, smokers, fire pits, chimineas, and any other outdoor fire apparatus used for recreational purposes.

It shall be prohibited within the City of Auburn Indiana for any individual resident to operate a detached device or structure for the purpose of burning and / or providing heat or other energy to a residential structure and/or garage or outbuilding use within the City of Auburn, Indiana.

§154.15 FIRE HYDRANTS.

Within the City limits of Auburn there shall be a minimum of ten (10) feet of unobstructed access to the hose ports of each fire hydrant.

§154.16 CERTIFICATE OF OCCUPANCY.

All Certificates of Occupancy issued by the City of Auburn Building Commissioner, DeKalb County, Indiana, with the exception of One (1) and Two (2) Family dwellings, shall contain the signatures of the Fire Chief and the Fire Marshall, City of Auburn Fire Department DeKalb County, Indiana.

§154.17 RIGHT TO APPEAL.

All persons shall have the right to appeal the decision of the Fire Chief and/or Fire Marshal and/or Auburn Fire Department DeKalb County, Indiana, first through the Board of Public Works and Safety of the City of Auburn, and then to the Fire Prevention and Building Safety Commission of Indiana in accordance with the provisions of I.C. 4-21.5-3 as applicable.

§154.18 REMEDIES.

The attorney for the City of Auburn, DeKalb County, Indiana, upon receipt of a written notice from the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, that after having issued a lawful notice and order to abate a violation or violations of this code, and after a reasonable time for compliance has expired, shall bring action in the Circuit or Superior Courts of DeKalb County, Indiana, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made, by the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this ordinance.

§154.19 PENALTY.

If any person, firm or corporation shall violate any of the provisions of this ordinance, or shall do any act prohibited herein or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Fire Chief and/or Fire Marshal and/or the Auburn Fire Department, DeKalb County, Indiana, or shall fail neglect or refuse to obey any lawful order given by the Fire Chief and/or Fire Marshal and/or Auburn Fire Department, DeKalb County, Indiana, in connection with the provisions of this ordinance, for each such violation, failure, or refusal such person, firm or corporation shall be fined a forfeiture pursuant to Exhibit "A" attached hereto and made apart hereof. Each day of unlawful activity shall constitute a separate offense. Each such citation shall be appealable to the Board of Works and Safety prior to any other appeal allowed by law. Such appeal shall be requested in writing within ten (10) days of the citation. The Board of Public Works and Safety, after hearing, may affirm, modify or dismiss the citation.